

## **REMARKS**

In response to the above identified Office Action, the Applicants submit the above amendments and respectfully request reconsideration in view of the remarks below. Claims 6, 14 and 18 are amended. No claims have been added or cancelled. Accordingly, claims 1-25 are pending in the application.

### **I. Claim Rejections Under 35 U.S.C. § 102**

Claims 6-8, 10, 11, 13-15, 17-20, 22, 23 and 25 stand rejected under 35 U.S.C. § 102 as being allegedly anticipated by U.S. Patent No. 6,954,757 issued to Zargham, et al. (hereinafter “Zargham”).

To establish anticipation, the Examiner must show that the cited reference teaches each of the elements of the rejected claims. Specifically, “[t]he identical invention must be shown in as complete detail as is contained in the ... claim.” *Richardson v Suzuki Motor Co.*, 868 F 2d, 1226, 1236, 9 USPQ 2d 1913, 1920 (Fed. Cir. 1989) and MPEP § 2131. In regard to claim 6, this claim, as amended, includes the elements of “starting a central services node to provide a locking service and a messaging service.” The Examiner has relied on column 7, lines 43-46 of Zargham as disclosing this element of claim 6. However, the cited section of Zargham makes no mention of a service that provides locking, much less that such locking service is provided at a central service node. Rather, the entire discussion related to locking in Zargham states

An event may unlock or prompt the commencement of one or more business transactions.  
An event may lock or prompt ending of one or more business transactions. The locking or unlocking may also be events.

See Zargham column 7, lines 43-46 This discussion occurs in the context of handling events in the system of Zargham. In the same paragraph at column 7, lines 30-36 Zargham discloses that events can occur “anywhere across the enterprise in the course of conducting the business of the enterprise” or can occur “in any part of the IT infrastructure of the enterprise upon commencement, in response to, during or after completion of a business transaction.” Thus, it would appear that any locking related to events disclosed by the system of Zargham is handled in a distributed fashion and not in a centralized service node. Thus, it cannot be said that Zargham

inherently discloses the “central services node to provide a locking service,” as recited in claim 6. As a result, Zargham does not teach each of the elements of claim 6. Therefore, Zargham does not anticipate claim 6. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 6 are requested.

In regard to claims 7, 8, 10, 11 and 13 these claims depend from independent claim 6 and incorporate limitations thereof. Thus, at least for the reasons mentioned above in regard to independent claim 6, Zargham does not teach each of the elements of these claims. Accordingly, reconsideration and withdrawal of the anticipation rejection of claims 7, 8, 10, 11 and 13 are requested.

In regard to claim 14, this claim, as amended, includes elements of “means for performing centralized inter instance communication without maintenance of persistent state information.” The Examiner acknowledges on page 10 of the current Office Action that Zargham failed to disclose “a message server having no persistent state.” Thus, it would appear that Zargham does not teach any “means for performing centralized inter instances communication without maintenance of persistent state information.” The Applicants address the Examiner’s use of U.S. Patent Application No. 2002/0078132 by Cullen et al. herein below in reference to the rejection of claim 1. Therefore, Zargham does not anticipate amended claim 14. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 14 are requested.

In regard to claims 15 and 17, these claims depend from independent claim 14 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to independent claim 14, these claims are not anticipated by Zargham. Accordingly, reconsideration and withdrawal of the anticipation rejection of claims 15 and 17 are requested.

In regard to claim 18, this claim, as amended, includes elements analogous to those of independent claim 6 including “starting a central services node to provide a locking service and a messaging service.” Thus, at least for the reasons mentioned above in regard to independent claim 6, Zargham does not anticipate claim 18. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 18 are requested.

In regard to claims 19, 20, 22, 23 and 25, these claims depend from independent claim 18 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard

to independent claim 18 these claims are not anticipated by Zargham. Accordingly, reconsideration and withdrawal of the anticipation rejection of claim 18 are requested.

## **II. Claim Rejections Under 35 U.S.C. § 103**

Claims 1-5, 9, 12, 16, 21 and 24 stand rejected under 35 U.S.C. §103 as being unpatentable over Zargham in view of U.S. Patent Application No. 2002/0078132 by Cullen et al., (hereinafter "Cullen").

To establish a *prime facie* case of obviousness, the Examiner must show that the cited references combined teach or suggest each of the elements of the claims. In regard to independent claim 1, this claim includes the elements of "a message server having no persistent state." The Examiner acknowledges on page 10 that Zargham fails to disclose this element of claim 1. The Examiner then relies on Cullen, specifically paragraph five of Cullen to disclose this element of claim 1. The section of Cullen cited by the Examiner states

In general, in one aspect, the disclosure describes a method of handling messages received at a messaging system server. The method includes storing, in non-persistent storage, messages received from at least one client, removing delivered messages from the non-persistent storage, and saving messages stored in the non-persistent storage to persistent storage after a delay interval.

See Cullen paragraph [005]. This section makes no mention of maintaining a message server state. Applicants have reviewed Cullen and have been unable to discern any discussion of how the state of a message server is maintained. The Examiner appears to be confusing storing messages handled by a messaging server temporarily in a non-persistent storage unit with not maintaining a persistent state of the message server. However, the language of the claim is unambiguous. The language clearly states that the message server has no persistent state, not that the messages handled by a messaging server are stored in a non-persistent state. Thus, the Examiner has failed to set forth that Zargham in view of Cullen teaches or suggests each of the elements of claim 1. Therefore, Zargham in view of Cullen does not render claim 1 obvious. Accordingly, reconsideration and withdrawal of the obviousness rejection of claim 1 are requested.

In regard to claims 2-5, these claims depend from independent claim 1 and incorporate the limitations thereof. Thus, at least for the reasons mentioned above in regard to independent

claim 1, these claims are not obvious over Zargham in view of Cullen. Accordingly, reconsideration and withdrawal of the obviousness rejection of claim 2-5 are requested.

In regard to claims 9, 12, 16, 21 and 24, each of these claims include elements analogous to those of independent claim 1. Specifically, they include elements relating to a message server having no persistent state or restarting a message server without recovering its state. The Examiner relies on the same section of Cullen and the same misinterpretation of its teachings either directly or indirectly in the rejection of each of these claims. Thus, at least for the reasons mentioned above in regard to independent claim 1, the Examiner has not established that Zargham in view of Cullen teaches or suggests each of the elements of these claims. Accordingly, reconsideration and withdrawal of the obviousness rejection of these claims are requested.

## **CONCLUSION**

In view of the foregoing, it is believed that all claims now pending, namely claims 1-25, are now in condition for allowance and such action is earnestly solicited at the earliest possible date. If there are any additional fees due in connection with the filing of this response, please charge those fees to our Deposit Account No. 02-2666. Questions regarding this matter should be directed to the undersigned at (310) 207-3800.

Respectfully submitted,

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### **CERTIFICATE OF ELECTRONIC FILING**

I hereby certify that this paper is being transmitted online via EFS Web to the Patent and Trademark Office, Commissioner for Patents, Post Office Box 1450, Alexandria, Virginia 22313-1450, on 1-29-08, 2008.



Melissa Stead 1-29, 2008